



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,943	02/10/2004	Jeremy B. Ross	159803/FLU002	3179
23444	7590	12/29/2005	EXAMINER	
ANDREWS & KURTH, L.L.P. 600 TRAVIS, SUITE 4200 HOUSTON, TX 77002			LEE, GUNYOUNG T	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/775,943	ROSS, JEREMY B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gunyoung T. Lee	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11/03/2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-16 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-16 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/13/2005</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on November 3, 2005 has been entered:
  - Claims 1, 6, 10, 12-13 and 21-23 have been amended.
2. The corrected or substituted drawings were received on November 3, 2005.  
These drawings are approved.

### ***Response to Arguments***

3. Applicant's arguments with respect to newly amended claims 1,3-16 and 21-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The claims must be given their broadest reasonable interpretation. See MPEP § 2111.

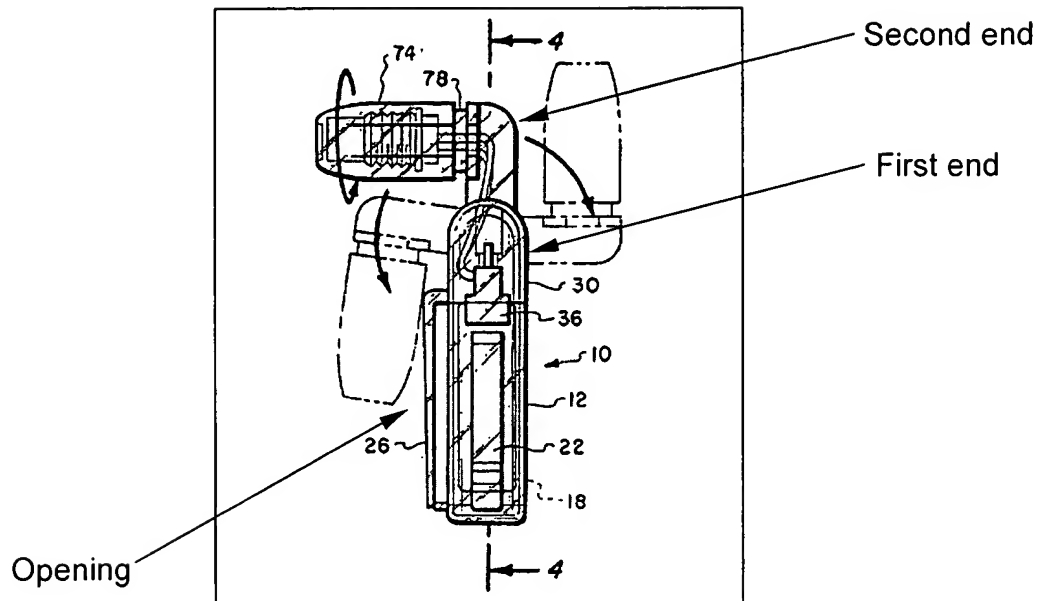
6. A preamble is not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure (see MPEP § 2111). The information in the preamble is not further given any patentable weight.

7. The functional statement that does not direct to structural limitations of an apparatus has not been given any patentable weight (see MPEP § 2114). The functional statements in the claims are not further given any patentable weight.

8. Claims 1, 3-9 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker (US 5,410,457).

9. In regards to claims 1, 3-9 and 13-16, Parker discloses a versatile-use flashlight having:

- A rotatable handle portion (Fig. 2, 12);
- A first member (Fig. 3, 54) having a first end and a second end, the first end connected to the handle portion (12) (as shown in the picture on page 4);
- A rotatable lightbox (Fig. 2, 74) connected to the said second end;
- Wherein the lightbox (Fig. 2, 74) is movable relative to the handle portion (12);
- An opening defined between the handle portion (Fig. 2, 12), the first member (54), and the lightbox (74) (as shown in the picture on page 4);
- Wherein the handle portion (Fig. 2, 12), the first member (54), and the lightbox (74) form a substantially U-shaped configuration.



10. Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Swallow (US 1,119,663).

11. In regards to claims 10 and 11, Swallow discloses a flash lamp having:

- A handle portion (Fig. 1, 10) connected to a lightbox (29) by a transverse/first member (15);
- Wherein the handle portion (Fig. 1, 10) is movable relative to the light box (29) (p. 1, line 91 – p. 2, line 4);
- A switch (Fig. 2, 39) provided on the transverse/first member (15) (p. 2, lines 13-16).

12. Claims 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Parsons et al. (US 6,916,104) as cited by applicant.

13. In regards to claims 21-23, Parsons et al. disclose a flashlight having:

- An assembly (Fig. 3, 50) including a light-emitting portion (58) and a handle portion (52);
- A strap (Fig. 3, 30) attached to the assembly (50) at a first location (20) and a second location (40).

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swallow (US 1,119,663) in view of Keller (US 3,970,228).

16. Swallow was discussed in the rejection of claim 10. In regards to claim 12, Swallow discloses the invention substantially as claimed except for a holster. Keller discloses a flashlight holder (holster) (Fig. 1, 10) including an attachment member (40) for attachment to a belt of a user (col. 2, lines 8-9) and a receiving portion (12) for receiving a flashlight. It would have been obvious to one of ordinary skill in the art at the

time of the invention to use the holster (holder) of Keller for the flash lamp of Swallow to allow the user to use the flash lamp without removal from the holster (holder) and easy flashlight removal from the holster (holder) when occasion demands. In addition, Swallow's flash lamp is capable of emitting a substantially horizontal light beam while the holster (holder) is attached to the user's belt, since the lighting direction of the lamp can be substantially orthogonal to the handle portion (Fig. 1, 10). This will allow the users to use their hands for other tasks, which will enhance the workability and safety of the user.

17. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. (US 6,916,104) as applied to claim 21 above, and further in view of Swallow (US 1,119,663).

18. Swallow was discussed in the rejection of claim 10. In regards to claim 24, Parsons et al. disclose the invention substantially as claimed except for an adjustable light emitting portion having a lens and a light source. Swallow discloses a flash lamp having an adjustable light emitting portion (Fig. 1, 29) having a lens (33) and a light source (Fig. 2, 26). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the adjustable lighting portion of Swallow for the flashlight of Parsons et al. to provide a control means of the direction of the light, which allows the user to provide sufficient illumination on a desired area without positing the body in an uncomfortable way, such as twisting the arm or hand. This will improve the safety of the

user, especially when he/she is working at unprotected areas such as on a ladder or roof.

### ***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunyoung T. Lee whose telephone number is (571) 272-8588. The examiner can normally be reached between 7:30 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached at (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should



Art Unit: 2875

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GTL  
12/20/2005



**JOHN ANTHONY WARD**  
**PRIMARY EXAMINER**